



CITY OF  
**MUKILTEO**

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*CIVIL SERVICE COMMISSION  
RULES AND REGULATIONS  
for the Fire and Police Departments*

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*City of Mukilteo, Washington*

*11930 Cyrus Way*

*Mukilteo, Washington 98275*

*Revised June 2014*

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## RULE I - GENERAL PROVISIONS

The Civil Service Commission, appointed by the Mayor of the City of Mukilteo in accordance with the terms of Mukilteo Municipal Code Chapter 2.62, such ordinance being enacted pursuant to the provisions of Chapter 41.08 RCW and Chapter 41.12 RCW, adopts the following rules and regulations for carrying out the purpose of said law.

### 1.01 AUTHORITY AND APPLICATION

These rules are promulgated pursuant to the authority granted by Chapter 41.08 RCW, Civil Service for City Firefighters and Chapter 41.12 RCW, Civil Service for City Police. These rules are applicable to proceedings before the Civil Service Commission and should be read in conjunction with the specific provisions of Chapter 41.08 RCW and Chapter 41.12 RCW, and the enabling ordinance providing for civil service.

### 1.03 SCOPE AND PURPOSE

These rules govern the continuing administration of the Civil Service System of the City of Mukilteo, Washington. The purpose of these rules is to assure that the Civil Service System in the City of Mukilteo is administered in accordance with the Ordinances of the City of Mukilteo, and that all proceedings before the Commission are conducted in an orderly, fair and timely manner.

### 1.04 PRESUMPTION OF VALIDITY

The Civil Service System implemented by these rules substantially accomplishes the purpose of Chapter 41.08 RCW and Chapter 41.12 RCW. These rules are presumed to be valid and shall be upheld unless in direct conflict with Chapter 41.08 RCW and Chapter 41.12 RCW.

### 1.07 SEVERABILITY

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end, any section or word is declared to be severable.



## RULE II - ADMINISTRATION AND OPERATIONS

### 2.01 COMMISSION—MEETINGS—QUORUM

In the necessary conduct of its work, the Commission shall meet on the first Thursday of each month, commencing at 4:00 p.m. at the Mukilteo City Hall unless otherwise published or there is no pending business requiring Commission action. If the regular meeting of the Commission falls on a City recognized holiday or some other City non-work day, the regular meeting shall be held on the first working day following the holiday or non-work day, or as scheduled by the Commission. Notices of special meetings shall be provided as required by the Open Public Meetings Act (Chapter 42.30 RCW, as amended). The Commission shall conduct hearings as required. Notice of hearings shall be provided as required by these rules. Two members of the Commission shall constitute a quorum. No action of the Commission shall be effective unless two members concur therein. All Commission meetings or hearings, regular or as required, shall be open and public provided, however, that the Commission may meet in executive session as authorized by the Open Public Meetings Act. See RCW 42.30.140(1) and (2).

### 2.03 CHAIR—VICE CHAIR

At the first regular meeting in January of each year, the Commission shall elect one of its members as Chair and another member to serve as Vice Chair for a term of one year. Should a Chair and/or Vice Chair resign or be removed from the position prior to the expiration of his/her term, the Commission, upon appointment of a new member, shall proceed to the election of a new Chair and/or Vice Chair.

### 2.05 RULES OF ORDER

Roberts Rules of Order shall be final authority on all questions of procedure and parliamentary law not otherwise provided by these rules. However, with the concurrence of two commissioners such rules may be waived or modified. In quasi-judicial proceedings, the Commission shall be guided, but not bound by, the Civil Rules for Superior Court.

### 2.07 COMMISSIONERS—CHALLENGE

Any challenge to a Commissioner's participation at a hearing shall be made by an interested party prior to the commencement of a hearing. The challenged Commissioners shall review and rule on the challenge prior to proceeding with the hearing. Failure to timely raise a challenge shall



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constitute a waiver of the challenge by the party unless, in the exercise of reasonable diligence, a basis for challenge is unknown by a party prior to commencement of a hearing.

#### 2.08 COMMISSIONERS—CHALLENGE—NECESSITY

If, as a result of disqualification(s) pursuant to Rule 2.07, there is no longer a lawfully constituted quorum available, then by reason of necessity, the disqualified Commissioner(s) shall return and proceed with the hearing.

#### 2.09 OFFICE HOURS

The office address of the Civil Service Commission is 11930 Cyrus Way, Mukilteo, Washington 98275. The regular office hours of the Commission Secretary/Chief Examiner shall be 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays or other non-working days identified by the City. References to “working days” in these Rules mean days upon which the Commission Secretary/Chief Examiner has regular office hours.

#### 2.11 PUBLIC RECORDS

Public records of the Commission shall be available for inspection and copying during the regular office hours of the Commission secretary.

No fee will be charged for inspections of public records. Inspection will be permitted during office hours in a space provided by the Commission Secretary/Chief Examiner, and under its supervision, and must be accomplished without excessive interference with the essential functions of the Commission. Copies will be made available at actual cost or as provided by City ordinance. These rules shall be printed for free public distribution.

#### 2.13 RECORD OF PROCEEDINGS

The Commission shall keep a record of its proceedings. The record of the Commission will not include a written verbatim report of proceedings unless ordered. The Commission may retain a court reporter to record all or part of a proceeding. In addition, a party to a proceeding, at his/her own expense, may have a court reporter record all or part of a proceeding. On appeal or review, costs of transcription may be recovered by the Commission, or a prevailing party, at the discretion of the reviewing court or the Commission. Upon appeal or review, transcription and certification of a record of proceedings shall be arranged by the Secretary/Chief Examiner.



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**2.15 REPORTS—APPLICANTS, ELIGIBLES, EMPLOYEES**

2.15.01 Each applicant, eligible and employee shall keep the Commission informed, by written notice to the Secretary/Chief Examiner, of current address and telephone number, and shall report any change of name through marriage or otherwise.

2.15.02 Each eligible shall keep the Secretary/Chief Examiner informed, in writing, regarding availability and any refusal to accept appointment or promotion and the reasons therefor.

**2.17 REPORTS—APPOINTING AUTHORITY**

The Appointing Authority shall immediately report to the Secretary in such detail and on such forms as the Secretary may prescribe:

2.17.01 Every appointment, transfer, promotion, demotion, reduction, layoff, reinstatement, suspension, leave of absence without pay, return to duty, assignment, change of position within a class or within an assignment title, change of title, change of compensation;

2.17.02 Every separation from the service with the reasons therefor;

2.17.03 Every refusal or failure to accept appointment by a person whose name has been certified.



## RULE III - SECRETARY/CHIEF EXAMINER

### 3.01 SECRETARY/CHIEF EXAMINER APPOINTMENT

A Secretary/Chief Examiner shall be appointed by the Commission.

### 3.03 APPOINTMENT PROCESS.

The Secretary/Chief Examiner shall be appointed as a result of a competitive examination, which examination may be either original and open to all properly qualified citizens of the city, or promotional and limited to persons already in the service of the police, fire or other city department as the Commission may decide.

### 3.05 SECRETARY/CHIEF EXAMINER—DISCIPLINE

The Secretary/Chief Examiner may be subject to suspension, reduction or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service.

### 3.07 SECRETARY/CHIEF EXAMINER—AUTHORITY

In addition to acting as Secretary/Chief Examiner of the Commission, the Secretary/Chief Examiner shall:

- 3.07.01 Be the general manager and executive officer of the Civil Service Department, responsible to the Commission, and shall direct the activities of all personnel in the Civil Service Department, including their appointments and removals;
- 3.07.02 Delegate duties where necessary and supervise the work of all persons employed in the Department, including the preparation, conduct, and scoring of examinations, and maintenance of the classification plan;
- 3.07.03 Report to the Commission from time to time as directed concerning the details of the work of the Department;

- 3.07.04 Prepare the budget for the Department, approve accounts, and administer generally the expenditure of funds appropriated for the operation of the Department;
- 3.07.05 Classify all Civil Service positions in the classified service, maintain a schematic list of all such classes in the classification plan, and prepare and maintain specifications for each class;
- 3.07.06 Determine which examinations shall be conducted, the minimum qualifications of applicants, the subjects to be covered in each examination, methods of testing, and the relative weights to be given to the various parts of the examination; supervise the conduct of the examinations, appointing such experts, special examiners, and other persons he or she may deem necessary; decide all questions relating to the eligibility of applicants, the admissibility of applicants to the examinations, extension of time and all questions arising during the course of an examination; prepare and submit a report prior to and after each examination to the Commission, together with a report on all appeals from rulings or appeals from any part of the examination; and
- 3.07.07 Perform all other functions necessary for the proper carrying-out of these rules and the provisions of law relating to the Civil Service System, and such additional duties as may be assigned to the Secretary from time to time by the Commission.

### 3.09 REVIEW OF AND APPEAL FROM ACTIONS OR DECISIONS OF THE SECRETARY/CHIEF EXAMINER

- 3.09.01 The Commission on its own motion may review or modify any action or decision of the Secretary/Chief Examiner.
- 3.09.02 Any such person adversely affected by any action or decision of the Secretary/Chief Examiner may request the Commission to revise or modify such action or decision. Such request shall be in writing setting forth with reasonable certainty the action objected to, the grounds supporting the request, and the relief sought, and must be made within ten (10) days from the date of notice of such action unless established otherwise in these Rules. The Commission shall thereupon, if in its opinion good cause is shown, conduct a hearing thereon.

## RULE IV - DEFINITIONS

4.01 ACTUAL SERVICE. Time in which a given employee has been engaged under Civil Service appointment in the performance of the duties of a position or positions and shall include absences with pay.

4.02 ADVANCEMENT. A salary increase within an arranged schedule of established rate of pay for a class or position made without examination.

4.03 ALLOCATION. The locating or placing in the classified service of a position in the class appropriate to it on the basis of duties and responsibilities and required qualifications of such position.

4.05 APPLICANT. Anyone who has filed an application to take a Civil Service examination.

4.07 APPOINTING AUTHORITY. The person or persons authorized to hire, promote, or discharge employees pursuant to the Mukilteo Municipal Code.

4.09 APPOINTMENT.

4.09.01 APPOINTMENT—REGULAR. The appointment of a certified eligible.

4.09.02 APPOINTMENT—PROVISIONAL. A limited appointment of

(a) Certified person to a classified position which is not vacant, but is currently unfilled due to an authorized leave of absence; or

(b) A non-certified person to a classified position for which there is no current eligible roster.

4.09.03 APPOINTMENT—TEMPORARY. A limited appointment other than from an eligible register for the purpose of performing work belonging in the classified service. A reduction of a regular employee is not a temporary appointment. Temporary appointment includes emergency appointment.

4.11 ASSIGNMENT. An employee may be assigned to a position which carries additional salary and additional limited responsibilities and is within the scope of the specification for the class from which assignment is made.

4.13 BREAK IN SERVICE. A separation from Civil Service status with a loss of accumulated service credit as occasioned by a "quit," "resignation," "discharge," or "retirement."



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4.15 CANDIDATE. Any applicant who has completed, or is in the process of completing, a Civil Service examination.

4.16 CAUSE. Cause shall mean good, sufficient, or just cause as determined by the Commission; exercised by the appointing authority in good faith and without discrimination on the basis of religion, politics, or other protected classification; and, in consideration of the total context of a disciplinary action, including procedural fairness and consideration of an employee's work record.

4.17 CERTIFIED ELIGIBLE LIST. A list of names from an eligible register transmitted by the Civil Service Commission to an appointing authority from which such appointing authority may fill a vacancy.

4.19 CERTIFY. Verification to the appointing authority that a list of names of candidates for employment has been selected from the list of persons tested and found eligible for employment.

4.21 CITY. The City of Mukilteo.

4.23 CIVIL SERVICE EMPLOYEE. Any employee who has Civil Service status.

4.25 CIVIL SERVICE REGISTER. See Eligible Register.

4.27 CLASS. A position or group of positions designated by the Commission as having similarity in duties and responsibilities, by reason of which the same examination may be used for each position in the group.

4.29 CLASS SERIES. Two or more classes which are similar as to line of work but which differ as to degree of responsibility and difficulty and which have been arranged in a ladder of steps in a normal line of promotion, such as Police Officer, Police Sergeant or Fire Fighter, Fire Captain.

4.31 CLASS SPECIFICATION. A description of the essential characteristics of a class and the factors and conditions that separate it from other classes, written in terms of duties, responsibilities and qualifications.

4.32 CLASSIFIED SERVICE. Classified service means all positions in the City police service and fire service which are created by ordinance and which are subject to the provisions of these regulations as defined by state law, specifically including all full-paid commissioned police officers, full-paid career firefighters, and full-paid administrative employees of the Police and Fire departments. The positions of Chief of Police, Assistant Chief of Police, Police volunteers, Fire Chief and all appointed temporary full-time and part-time personnel are specifically excluded from the Classified Service.

4.33 COMMISSION. The Civil Service Commission for the Fire and Police Departments appointed by the mayor pursuant to the Mukilteo Municipal Code 2.62.020. “Commissioner” means any one member of the Commission.

4.34 COMPENSATION. Compensation means any allowance, fee, salary or wage paid to an employee or officer in the classified service for performing the duties and responsibilities of his position or office.

4.35 CONTINUOUS SERVICE. Employment without interruption, except for absences on approved leave or absence to serve in the armed forces of the United States.

4.39 DEMOTION. Removal of an employee, for cause, from a higher to a lower class of employment or salary step within a class.

4.41 DEPARTMENT. Any department of the City subject to civil service as established by ordinance. The legal head of any such department is the “Department Head” or Department Head’s designee.

4.43 DISCHARGE. Termination, separation, dismissal, or removal from the service for cause.

4.45 ELIGIBLE. Anyone qualified for a given class through examination and placed on the proper eligible register; also, “Certified Eligible.”

4.47 ELIGIBLE REGISTER. A register or list of successful examinees for a given class from which certification may be made to fill vacancies in such class; also, “Register of Eligible.”

4.49 EMPLOYEE. Anyone holding a position in the Civil Service System of the City.

4.49.01 EMPLOYEE—REGULAR. Any employee who has been appointed from a certification and who has satisfactorily served the full probationary period.

4.49.03 EMPLOYEE—TEMPORARY. Any employee appointed to fill an emergency, temporary, or short-term need.

4.49.05 EMPLOYEE—EXEMPT. Any employee in a position of employment which is not subject to Civil Service rules and regulations, and in which one serves at the discretion of the appointing authority.

4.49.07 EMPLOYEE—PROBATIONARY. A person appointed from a certification who has not yet completed the specified trial period of employment.

4.49.09 EMPLOYEE—PROVISIONAL. Any employee appointed provisionally to a position.

Note: a regular employee is the only employee with rights under Rule 19.01.



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4.50 ENTRY LIST. An eligibility list for applicants who have passed the open competitive examination for entry level positions which do not require prior police or fire service experience, and shall be ranked by final score.

4.51 EXCEPTIONAL ENTRY LIST. An eligibility list for applicants currently attending or having successfully completed a basic law enforcement academy (Police Department) that have less than twenty-four (24) months in civilian law enforcement position or having successfully completed Fire Fighter 1, Hazardous Materials Operations, and currently hold either Washington State Emergency Medical Technician or Washington State Paramedic certification (Fire Department).

4.52 EXAMINATION. The process of testing the fitness and qualifications of applicants for positions in a class.

4.52.01 EXAMINATION—OPEN. An examination open to any member of the public meeting the requirements as stated in the official bulletin announcing the examination.

4.52.02 EXAMINATION—PROMOTIONAL. An examination limited to employees meeting the requirements stated in the official bulletin announcing the examination.

4.53 EXAMINATION BULLETIN (OFFICIAL BULLETIN). An examination announcement containing basic information about the class of position, the requirements for filing, how to apply, and the other pertinent information. The examination announcement shall be posted on the City's website and in other suitable locations.

4.55 FINAL EXAMINATION SCORE. Total of earned exam score plus additional veteran's preference or service credit points for which the applicant is eligible.

4.57 LATERAL ENTRY LIST. An eligibility list for applicants that are already trained and experienced personnel into positions of the police and fire departments.

4.59 LAYOFF. The interruption of service and pay of any regular or temporary employee because of a lack of work or funds, except that the term shall also apply to the separation of temporary employees who have completed the stipulated period of employment.

4.61 OFFICIAL NEWSPAPER. The newspaper designated as official by the City, or as otherwise designated by the Commission.

4.63 POSITION. Any group of duties and responsibilities in the service of the City which one person is required to perform as full-time or part-time employment, and which is included in the City budget.

4.63.01 POSITION—REGULAR FULL TIME. A position included in the official annual budget that is neither specified as seasonal employment, nor limited for a period of less than the budget year; also any such position established during a given budget year, unless the Department Head certifies to the Civil Service Commission that such position will not be continued in the succeeding year's budget.

4.63.02 POSITION—REGULAR PART-TIME. Employment in a permanent position for work on a basis of less than eight hours a day or less than forty hours a week, but on a regular schedule.

4.65 PROBATION OR PROBATIONARY. The status of an employee during a trial period following a permanent appointment from an eligible register. This trial period is part of the examination process and is a working test during which an employee is required to demonstrate, by actual performance of the duties, fitness for the position to which certified and appointed.

4.67 PROMOTION. The appointment of an employee to a higher class or to a position of higher skill or responsibility level. Any change in employment other than by a temporary or provisional appointment (1) from a lower class to any position in any higher class in the same promotional series of classes as determined by the Commission, or (2) to a position which although an entrance position is of higher skill and/or responsibility, shall constitute a promotion.

4.69 QUIT. Any voluntary separation of an employee from the City service without acceptance of a resignation by the appointing authority.

4.71 REALLOCATION. The allocation of a position to a different class in the Classification Plan.

4.73 REDUCTION. The removal of an employee from a higher class to a lower class of employment for reasons other than cause.

4.75 REGISTER. A list of candidates for employment who have passed an employment examination, whose names may be chosen and certified by the Commission for submission to the appointing authority for consideration for employment. See 4.47, "Eligible Register."

4.77 REINSTATEMENT. Reappointment of a regular employee to a position in a class in which the employee was a regular employee.



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4.79 REINSTATEMENT REGISTER. A list of names of persons who were regular employees in a given class and who were laid off and are entitled to reinstatement in such class. A reinstatement register may also include former employees on disability retirement who are capable mentally and physically for reinstatement.

4.81 RESIGNATION. A written request by an employee for separation from a class or from the City service. To be valid, such request must show written approval of the appointing authority.

4.83 RETENTION CREDIT. The employee's service credit in a given class or position and any higher position in a series or any other credit used by the Commission to determine order of lay-off.

4.85 RETIREMENT. The termination of employment for service or disability pursuant to applicable retirement laws.

4.87 SECRETARY/CHIEF EXAMINER. Secretary/Chief Examiner as defined in Rule III.

4.89 STANDING—REGULAR. The full Civil Service status of a regular employee.

4.91 SUSPENSION. Temporary removal of an employee from the performance of their job duties with or without pay, for cause, or pending determination of charges against the employee which could result in demotion or discharge.

4.93 UNCLASSIFIED SERVICE. The positions in the City that are not subject to civil service and are identified as exempt positions, assignment levels, or other positions authorized by law.

4.95 VETERANS' PREFERENCE. Preference in examination and employment, based on military service, as provided and defined by applicable laws.



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## RULE V - RULE-MAKING

### 5.01 AMENDMENTS OF RULES.

The Commission may amend these rules or adopt new rules by majority vote of the Commission at any regular or special meeting of the Commission.

### 5.03 EFFECTIVE DATE OF RULES.

All rules and amendments shall become effective immediately upon their adoption by the Commission, unless some later date is specified therein.

### 5.05 COPIES OF RULES.

A copy of these rules and a copy of all subsequent rules or amendments shall be sent as soon as practicable after adoption to the City clerk and to each affected department of the City. A copy shall be maintained in the office of the Commission for public inspection, and copies shall be available for free public distribution as require by state law.

### 5.07 EFFECT OF RULES.

The terms and conditions of Civil Service employment are governed by these rules, and applicable statute and ordinance. No employee shall have a property interest in or as a result of these rules. These rules, and the rules the Commission may enact, regulate the mode and appointment of tenure in the Civil Service, and employees are subject to these rules and amendments thereto.

## RULE VI - CLASSIFICATION

### 6.01 CLASSIFICATION PLAN.

A class specification shall be prepared and maintained for each class in the Civil Service System. Such specifications shall describe generally the class, distinguish it from other classes, give examples of typical duties of the class, and contain, when applicable, a statement of those qualifications for applicants for positions in the class not otherwise provided in these rules.

### 6.03 ADMINISTRATION OF POSITION CLASSIFICATION.

The Secretary/Chief Examiner will make, or cause to be made, position classification studies of individual positions or groups of positions whenever it is deemed necessary; whenever the duties or responsibilities of existing positions have undergone significant changes; whenever notification is received that new positions are to be established by the City; or upon request of an appointing authority or an affected employee if title classification of such position has not been reviewed within the last 12 months.

### 6.05 CLASSIFICATION OF POSITIONS.

6.05.01 Each position in the classified service shall be classified at the direction of the Secretary/Chief Examiner and allocated to its appropriate class in accordance with the character, difficulty, and responsibility of its designated duties. Positions shall be allocated to a given class when:

- (a) The same descriptive title may be used to designate each position in the class;
- (b) The same level of education, experience, knowledge, ability, and other qualifications may be required of incumbents; and
- (c) Similar tests may be used to select incumbents.

6.05.02 All classes involving the same character of work but differing as to level of difficulty and responsibility shall be assembled into a class series.

6.05.03 Compensation or salary shall not be a factor in determining the classification of any position or the standing of any incumbent.

- 6.05.04 In allocating any position to a class, the specification for the class shall be considered as a whole. Consideration shall be given to the general duties, the specific tasks, and the responsibilities, the required and desirable qualifications for such position, and the relationship to other classes. The examples of duties in a specification shall not be construed as exclusive or restrictive, and an example of a typical task or combination of two or more examples shall not be taken, without relation to all parts of the specification, as determining that a position should be included within a class.
- 6.05.05 It shall be the duty of responsible administrative officers in the various departments to report to the Secretary/Chief Examiner any and all organizational changes which will abolish or effect changes in existing positions or establish new positions. When an appointing authority requests the establishment of any new or additional position of more than sixty (60) days' duration, or a change in allocation of an existing position, a request for such consideration shall be addressed to the Secretary/Chief Examiner, accompanied by a statement of the duties, responsibilities, and qualification requirements of the position. In those instances where gradual shifts in work emphasis or changing work conditions have effected material changes in existing positions, the Secretary/Chief Examiner shall be notified in writing by the Department before the end of the budget year. In those instances in which the duties of a position are materially changed for other reasons, the Secretary/Chief Examiner shall be notified immediately and not later than ten (10) days from the date of such change.
- 6.05.06 Assignment. An employee may be assigned to a position which carries additional salary and limited additional duties and responsibilities and is within the scope of the specifications for the class from which assignment is made. If the duties of the position for which an assignment is proposed are beyond the scope of the official specification for the base class, such positions must be separately classified and eligibility established by examination. No permanent or vested rights shall be acquired by reason of such assignment, and such assignment shall be subject to review and change by the appointing authority at any time.



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**6.09 EFFECT OF CLASSIFICATION CHANGES ON INCUMBENT**

- 6.09.01 Whenever the title of a class is changed without a change in duties or responsibilities, the incumbent shall have the same status in the retitled class as held in the former class.
  
- 6.09.02 Whenever a position is reclassified from one class to a higher class, the incumbent shall not continue in the same position, except temporarily, without gaining eligibility for the new class by examination and receipt of an appointment in accordance with these rules.
  
- 6.09.03 Whenever a position is reclassified from one class to a lower class, the regular incumbent may, with the concurrence of the appointing authority and the Commission, elect to take a voluntary reduction to the lower class or, at the employee's option and with the concurrence of the appointing authority and the Commission, may remain in the reclassified position for a temporary period as limited by the Commission only until transfer can be made to another position in the class in which the employee has regular standing.

## RULE VII - APPLICATIONS AND APPLICANTS

### 7.01 GENERAL REQUIREMENTS FOR FILING APPLICATIONS

7.01.01 All applicants for examination for positions in the classified Civil Service must file an application on a form and in a manner prescribed by the Secretary/Chief Examiner; no one shall be admitted to any examination without having first filed an application on the proper form, giving fully, truthfully, and accurately all information required.

7.01.02 In order to file an application for examination, the applicant must:

- (a) Meet the requirements specified in these rules and in the official examination bulletin as of the closing day of the official filing period.
- (b) Produce evidence of education, training, experience, or any lawful requirement for the class for which they are applying, as directed by the Secretary/Chief Examiner.

7.01.03 Time for filing applications:

- (a) All applications for examination shall be filed with the Secretary/Chief Examiner or their designee during office hours and within the time limit and in the manner fixed in the official announcement of the examination, provided that upon written evidence of extenuating circumstances acceptable to the Secretary/Chief Examiner, late applications may be accepted. Applications received by mail in the office of the Commission or designee must be received on or before the closing date.
- (b) The time for filing applications may be extended by the Secretary/Chief Examiner as the needs of the service require, provided that the examination shall then be re-advertised.

### 7.02 MINIMUM REQUIREMENTS

7.02.01 All applicants for police officer and fire fighter shall be citizens or lawful permanent residents of the United States of America. All administrative applicants, applicants and employees of the police department and fire department shall be eligible to work legally in the United States. All applicants must be able to speak, read, write, and comprehend the English language, be in



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ordinary good health, and be of good moral character and temperate and industrious habits.

Minimum education requirements shall be high school graduation, or qualification under general education development tests, unless otherwise specified herein.

All applicants, except applicants for full-paid administrative positions, shall meet the minimum medical and health standards established by these Civil Service Rules and/or pursuant to RCW Chapters 41.26.045 and 41.26.046.

The minimum age requirements for police officers shall be 21 years of age at the time of entering the Basic Law Enforcement Academy; full-paid career fire fighters shall be at least 21 years of age; and the maximum age prior to any appointment shall be consistent with the applicable provisions of the State of Washington Law Enforcement Officers and Firefighters Retirement Act.

**7.03 EXCEPTIONAL ENTRY: FULL-PAID ADMINISTRATIVE EMPLOYEES**

In accordance with the needs of the Police and Fire Departments, an exceptional entry certified Eligible List may be requested by the Appointing Authority. The Commission shall be guided by the applicable job description in defining the minimum education and experience requirements of the position.

**7.04 LATERAL ENTRY: FULL-PAID ADMINISTRATIVE EMPLOYEES**

In accordance with the needs of the Police and Fire Departments, a lateral entry certified Eligible List may be requested by the Appointing Authority. The Commission shall be guided by the applicable job description in defining the minimum education and experience requirements for the position.

**7.05 APPLICATIONS FOR PROMOTIONAL EXAMINATIONS**

7.05.01 An application shall be accepted from any regularly appointed employee in the classes from which promotion is allowed who, in addition to meeting the requirements of Rule 7.01, has the requisite service credit designated in the official bulletin.

7.05.02 An open examination may be conducted when, in the opinion of the Chief of the department, no permanent employee of the service is qualified for the promotion.

7.05.03 In the event less than three (3) eligible candidates are available from within the Department, or in the event no one attains a passing score on the promotional examination given, the commission may direct the Examiner to advertise the examination to include personnel outside the City.

#### 7.07SPECIAL REQUIREMENTS

The Secretary/Chief Examiner may prescribe such limits and such special requirements, physical or otherwise, as in the Secretary/Chief Examiner's judgment are required by the work to be performed.

#### 7.09REJECTION OF APPLICANT OR ELIGIBLE

If the Secretary/Chief Examiner determines that a particular applicant does not meet the minimum requirements as established by the Commission, and specified in official examination bulletin, the applicant shall be notified as such in writing.

The Secretary/Chief Examiner may reject an application for examination, withhold from an Eligible List or from certification the name of an eligible, or remove from an Eligible List the name of an eligible if the applicant or eligible:

- 7.09.01 Does not meet the requirements set forth in these rules or in the bulletin announcing the examination;
- 7.09.02 Is physically or mentally unfit to perform the duties of the position sought;
- 7.09.03 Has been convicted of any felony, or a misdemeanor, involving moral turpitude (see Chapter 9.96A, RCW);
- 7.09.04 Has been dismissed or has resigned in lieu of discharge from any position, public or private, for any cause which would be a cause for dismissal from the City of Mukilteo service or has an unsatisfactory record of employment in the City of Mukilteo service or with any other agency or firm;
- 7.09.05 Has made any material false statement or has attempted any deception or fraud in connection with this or any other Civil Service examination;



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- 7.09.06 Fails to appear for fingerprinting or other investigation as required;
- 7.09.07 Has assisted in preparing the examination for which application is sought or has in any other manner secured confidential information concerning such examination which might give an unfair advantage over other applicants in the examination
- 7.09.08 After notification, did not promptly appear at the time and place designated for the examination;
- 7.09.09 Has been discharged from the armed forces under dishonorable conditions;
- 7.09.10 For other material reasons.

See Rule 3.09, "Review and Appeal from Actions or Decisions of the Secretary/Chief Examiner."

#### 7.11 DEBARMENT FROM EMPLOYMENT

- 7.11.01 No one who has been dismissed from the Service for cause involving moral turpitude shall be allowed to again enter the Service, and anyone dismissed for other good cause shall be allowed to again enter the Service only by express consent of the Commission.
- 7.11.02 Any applicant for appointment, promotion, reemployment, increase of salary, or other personal advantage, who shall directly or indirectly pay or promise to pay any money or other valuable thing to anyone whatsoever for or on account of such actual or prospective advantage, shall be ineligible for any further employment in the Civil Service.

#### 7.13 NOTICE OF NON-ACCEPTANCE

Anyone against whom action is taken under Rule 7.09 shall be notified promptly by the Secretary/Chief Examiner of the reasons therefor by written notice mailed to the applicant or eligible.

#### 7.15 ADMISSION TO EXAMINATION PENDING APPEAL

The Secretary/Chief Examiner may admit to the examination anyone whose application was not accepted, pending final disposition of an appeal, such admission to be without prejudice to either the City of Mukilteo or the applicant.



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**7.17 AMENDMENT OF APPLICATION**

The Secretary/Chief Examiner may permit any applicant, before or after acceptance of the application form, to amend the application or to file an amended application, provided it is submitted by the application closing date and time.

**7.19 APPLICATIONS NOT RETURNED**

All applications when completed and filed become the property of the Commission and thereafter may not be returned to the applicant.

**7.21 APPLICATION FEE (RESERVED)**



## RULE VIII - EXAMINATIONS

### 8.01 ORDERING EXAMINATIONS

An examination shall be ordered whenever it is deemed by the Appointing Authority to be in the best interest of the City of Mukilteo. The Secretary/Chief Examiner shall administer examinations as provided by these rules.

8.01.01 Conduct may be delegated. The Secretary/Chief Examiner shall arrange for the use of public or private buildings and equipment for the conducting of examinations. The Secretary/Chief Examiner shall designate the person or agency that shall conduct and score the examination.

### 8.03 EXAMINATION ANNOUNCEMENT

Public notice of examinations shall be given by the Secretary/Chief Examiner in at least two (2) conspicuous places in a public place or a building or by publication in a newspaper or internet or both, at least fifteen (15) days preceding such examination. The official bulletin shall be posted in City Hall and distributed to appropriate departments for posting. Promotional examination notices shall be posted in City Hall or other designated area and distributed to the department offices not fewer than fifteen (15) days preceding the examination.

### 8.05 AMENDMENTS TO ANNOUNCEMENTS

The Secretary/Chief Examiner may amend any published announcements with appropriate public notice. Method of public notice shall be the same as utilized in 8.03. Said notice will be posted at least three (3) days preceding such examination.

### 8.07 CONTINUOUS EXAMINATIONS

A continuous or periodic examining program may be ordered and administered by the Secretary/Chief Examiner for any class of positions for other than promotional examinations. Filing will be open, applications received, and the examinations administered according to the needs of the service. The names of qualified eligible resulting from such examinations shall be entered on the Eligible List, and certifications for appointments shall be made in the same manner as from any Eligible List. Names of eligible from successive examinations in the same



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program shall be entered on the Eligible List for the class at the appropriate places and determined by final grades. Names may be withheld from certification or removed from such Eligible Lists in the same manner and for the same reasons as from any Eligible List.

8.07.01 Notice. Public notice of continuous examinations shall state that the period for filing applications and taking examinations shall remain open until further order and notice. Qualified applicants may take the examination at such times and places as specified in announced schedules which shall be posted in all places and departments where public notice of the examination is or should be posted and, to the extent possible, shall be included in the Examination Bulletin.

8.07.02 Duration and Closing. Any open filing and examination period may be closed by order of the Secretary/Chief Examiner.

8.07.03 To expedite certification and appointment and to maintain security of examination material, no keyed copy of the written test will be provided at any time. The Eligible List may be promulgated immediately after the results are obtained.

8.07.04 Except as above provided, the rules applicable to other examinations shall apply to continuous and periodic examinations.

## 8.09 CHARACTER OF EXAMINATIONS

All examinations shall be competitive, impartial, and practical in their character. They shall be designed to qualify and rank applicants in terms of their relative fitness to perform the duties of the class for which the examination was ordered. An examination shall be deemed to be competitive when applicants are tested as to their relative qualifications and abilities, or when a single applicant is scored against a fixed standard.

## 8.11 CONTENT OF EXAMINATIONS

Examinations may include written tests, personal qualifications, physical or performance tests, or evaluations of training and experience, interviews, any other suitable evaluation of fitness, or any combination of such tests. Such tests may evaluate education, experience, aptitude, knowledge, skill, physical condition, personal characteristics and other qualifications to determine the relative fitness of the applicants.

### 8.13 PARTS AND WEIGHTS

Each examination may contain one or more parts to which percentage weights shall be assigned, which weights shall total 100%.

#### 8.13.01 Police Department promotions:

Each part shall be graded independently and each applicant must attain the minimum passing score, without the benefit of any other credit, before continuing to the next part or phase of the examination. This earned grade shall be multiplied by the percentage weight assigned to each part, and the sum of the resulting products shall be called the Examination Grade.

#### 8.13.02 Fire Department promotions:

Each part shall be graded independently. This earned grade shall be multiplied by the percentage weight assigned to each part, and the sum of the resulting products shall be called the Examination Grade. The minimum passing cumulative Examination Grade, without the benefit of any other credit, shall be 70%.

### 8.17 PASSING GRADE REQUIRED

The name of an applicant shall not be entered on a Certified Eligible List without the applicant having attained a passing grade in the examination as established by the Secretary/Chief Examiner.

### 8.19 PROMOTIONAL EXAMINATIONS

Upon showing from a department that special training and knowledge gained within a department is essential to the proper filling of the vacancy, vacancies in the higher positions of a class shall be filled by promotion whenever practical in the judgment of the Chief.

**8.19.01 Police Sergeant Promotional Examinations.** The minimum qualifications for the rank of Sergeant are contained in the current job description. The promotional process is an assessment center exercise that evaluates the applicant's knowledge of law, department policy, and current professional practices; skills in oral communication and writing; judgement; and ability to apply supervisory

practices to a variety of situations. The promotional examinations may be announced and applications accepted when vacancies occur or the certified eligibility list has expired or has been exhausted. The assessment exercise may be administered and scored in accordance with this Rule and the eligibility list certified by the Commission at a regular meeting.

8.19.02 Fire Captain Promotional Examinations. The minimum qualifications for the rank of Fire Captain are contained in the current job description. The promotional process is an assessment center exercise that evaluates the applicant's knowledge of law, department policy, and current professional practices; skills in oral communication and writing; judgement; and ability to apply supervisory practices to a variety of situations. The promotional examinations may be announced and applications accepted when vacancies occur or the certified eligibility list has expired or has been exhausted. The assessment exercise may be administered and scored in accordance with this Rule and the eligibility list certified by the Commission at a regular meeting.

8.19.03 Fire Assistant Chief and Shift Battalion Chief Promotional Examinations. The minimum qualifications for the rank of Fire Assistant Chief and Shift Battalion Chief are contained in the current job descriptions. The promotional process is an assessment center exercise that evaluates the applicant's knowledge of law, department policy, and current professional practices; skills in oral communication and writing; judgement; and ability to apply supervisory practices to a variety of situations. The promotional examinations may be announced and applications accepted when vacancies occur or the certified eligibility list has expired or has been exhausted. The assessment exercise may be administered and scored in accordance with this Rule and the eligibility list certified by the Commission at a regular meeting.

## 8.20 TEST RESULTS AND CHALLENGES OF TEST SCORES

Each applicant shall be notified by mail of the results of the examination and, if successful, of his or her final earned rating.

## 8.23 VETERANS CREDIT

Veterans who have passed an examination shall be entitled to credit pursuant to Chapter 41.04 RCW, or other law.

## 8.29 KEYED COPY INSPECTION AND EXAMINATION PROTEST

8.29.01 Any protest against the scope, content, or practicality of any part of the examination shall be filed in writing with the Secretary/Chief Examiner within the time limit specified on the examination instruction sheet or, if no time limit is specified, within three (3) working days immediately following the administration of such part.

8.29.02 When a qualifying grade is required on any part of an examination, those who fail to receive the qualifying grade shall be notified, and any protest or appeal must be filed in writing with the Secretary/Chief Examiner within three (3) working days after the notices of results have been mailed.

8.29.03 Any protest against scoring or any allegation of clerical error in the final results of an examination must be filed in writing within three (3) working days after the notices of results have been mailed.

8.29.04 All protests filed in accordance with this rule shall be considered, and any proper corrections made. If authorized corrections are applicable to other applicants, the corrections shall be made on all examination papers affected.

## 8.31 CORRECTION OF CLERICAL ERRORS

Any clerical error may be corrected by the Secretary/Chief Examiner upon discovery at any time during the life of the Eligible List, but no such correction shall affect an appointment made from a certification made prior to the correction.

## 8.33 EFFECTIVE DATE OF EXAMINATION RESULTS

Results of an examination shall become effective on the date the Certified Eligible List is certified by the City of Mukilteo Civil Service Commission.

## 8.35 REEXAMINATION

8.35.01 No one shall be reexamined for the same class within six (6) months of the effective date of such examination, unless authorized by the Secretary/Chief Examiner upon determination that it would be in the best interest of the City of Mukilteo.

8.35.02 If an eligible takes a succeeding examination for the same class, the result of such examination shall not nullify any remaining eligibility already established. Eligibility attained by the second examination shall be entered on the Eligible List, and the eligibility that will provide the greatest advantage to the eligible shall be used.

### 8.37 EXAMINATION PAPERS

Examination papers of each eligible shall be kept on file in the office of the Commission until the expiration of eligibility.

### 8.39 ADDITIONAL EXAMINATION

8.39.01 Eligible certified pursuant to Rule 9 shall be subject to medical, physical, or psychological examination and to such other examinations as authorized and approved by the Appointing Authority and/or Commission. Such other examinations include, but are not limited to, background examination and polygraph, provided, however, polygraph examination shall be allowed only for entry-level applicants under RCW 49.44.120. Reports of such examination shall be filed with the Commission in the event the findings of the examination recommend that the eligible be rejected. The Commission shall consider such recommendation, may require further examination, and may order the eligible's name dropped from the Eligible List.

8.39.02 Before the Appointing Authority refers an eligible for medical (including mental health) examination, a conditional offer of employment must be made.

### 8.43 NUMBER OF APPLICATIONS—LIMITATIONS

8.43.01 The Secretary/Chief Examiner may restrict the number of qualified applicants to be examined whenever an examination for a position is likely to attract large numbers of qualified applicants, and when job-related testing processes are prohibitively costly or impractical to administer to all qualified applicants, or may have adverse impact on protected groups.

8.43.02 The Secretary/Chief Examiner may limit eligibility in subsequent exam parts to those scoring highest on a preliminary test or series of tests; provided, however,



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the number of applicants shall be established before administration of preliminary tests.

## RULE IX - ELIGIBILITY LISTS AND ELIGIBILITY

### 9.01 ESTABLISHMENT OF ELIGIBLE LISTS

After each examination, an Eligible List for the class shall be prepared on which the names of successful applicants shall be ranked as follows:

- 9.01.01 On a promotional Eligibility List: relative rank shall be determined by the examination rating or grade plus percentage allowed by law for veteran's scoring criteria.
- 9.01.02 On an open graded Eligibility List: relative rank shall be determined by the examination grade, plus percentage allowed by law for veteran's scoring criteria.
- 9.01.03 Priority of time of examination shall not give any preference in rank on the Eligible List.
- 9.01.04 The preference in rank of eligible having equal final general averages shall be determined as follows, in the order stated:
  - (a) The one who qualifies for veteran's scoring criteria in accordance with Washington state law.
  - (b) When the examination is composed of two or more parts with separate grades, the one who has:
    - (1) The highest grade on the most heavily weighted part of the examination; if a tie still exists, then the highest grade on the next most heavily weighted part, and so on for as many parts as the examination contains.
    - (2) The highest grades on the written test if all parts are weighted equally.
  - (c) When the examination has only one part or the applicants have the same standing under (a) and (b) above:
    - (1) As between applicants who are City of Mukilteo employees, the one having the greater service credit with the City of Mukilteo, regardless of class or department;
    - (2) If one is a regular or probationary City of Mukilteo employees and the others are not, the regular City of Mukilteo employee has preference.



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(d) By lot.

### 9.03 EFFECTIVE LIFE OF LISTS

Certified Eligible Lists shall become effective upon the approval thereof by the Civil Service Commission. Certified Eligible Lists, including promotional lists, shall remain in effect for six (6) months, and may be extended for a six (6) month period up to three times, allowing the list to be valid for up to two years.

9.03.01 In the case of continuous examinations, after each examination, the Eligible List for the class shall be updated to include the additional successful applicants in ranked order by exam score.

### 9.05 RETURN TO ELIGIBLE LIST AFTER RESIGNATION OR RETIREMENT

9.05.01 A former employee who resigned or retired may request return of his or her name to the proper open graded Eligible List for the class. Such request must be made within one (1) year from the date of resignation or retirement, provided, the Secretary/Chief Examiner may extend the above time limitation for not to exceed an additional four (4) years upon satisfactory showing that such extensions would be in the best interest of the City of Mukilteo.

9.05.02 Any request for return to Eligible List following resignation or retirement must be supported by written recommendation of the former employing department.

9.05.03 A former employee whose eligibility is reinstated under this rule shall be certified according to Civil Service rules. However, the name of such an eligible need be considered only by the department which recommends the return of the name to the Eligible List.

9.05.04 The name of a former employee who resigned or retired may not be returned to a promotional Eligible List, unless recommended by the head of the former employing department and approved by the Civil Service Commission within one (1) year from the date of resignation or retirement.

## 9.07 ESTABLISHMENT OF REINSTATEMENT ELIGIBLE LISTS

9.07.01 The names of regular employees who have been laid off or, when requested in writing by the appointing authority, probationary employees who have been laid off shall be placed upon a reinstatement Eligible List for the same class and for the department from which laid off, for a period of one (1) year from the date of the layoff.

9.07.02 Upon the request of the Appointing Authority, the Secretary/Chief Examiner may approve the certification of anyone on such a reinstatement Eligible List as eligible for appointment on an open competitive basis in the department requesting certification.

9.07.03 Anyone on a reinstatement Eligible List who becomes a regular employee in another department shall lose reinstatement rights in the former department.

9.07.04 Anyone accepting a permanent appointment in the class from which laid off and in a department other than that from which laid off is not to be certified to the former department unless eligibility for that department is restored.

## 9.11 CHANGE OF AVAILABILITY OF APPLICANTS OR ELIGIBLES

9.11.01 It shall be the responsibility of an applicant or eligible to notify the Civil Service Department in writing immediately of changes in address, telephone number, email address, change of name through marriage or otherwise, or any changes which may affect availability for employment.

9.11.02 In the event the applicant or eligible is unable to continue the process, the applicant or eligible will notify the Secretary in writing of the applicant's or eligible's unavailability for the position.

## 9.13 CANCELLATION OF ELIGIBILITY

9.13.01 Anyone's name may be removed from an Eligible List for failure to pass a required examination or upon receipt of proof of bad character or other unfitness; fraudulent conduct; false statements by the eligible or by others with the eligible's collusion; inability to perform the essential functions of the position with or without accommodation; inability to meet the minimum medical and health standards established by these Civil Service Rules and/or pursuant to RCW Chapters 41.26.045 and 41.26.046; or, other disqualifying factor in

connection with any application, examination for, or securing of an appointment. A previous unsatisfactory work record with the City of Mukilteo or dismissal from the service, or dismissal from any position, public or private, for any cause which would be a cause for dismissal from the City of Mukilteo service shall be deemed cause for cancellation of eligibility.

- 9.13.02 Separation from the service will terminate any promotional eligibility.
- 9.13.03 Failure to respond to an inquiry from the Appointing Authority may result in the Secretary/Chief Examiner striking the eligible from the Eligible List.
- 9.13.04 Failure to accept all the conditions of employment as listed in a Conditional Offer of Employment, or if the eligible has refused to accept employment, the Secretary/Chief Examiner may strike the eligible's name from the Eligible List.
- 9.13.05 Failure to respond to the canvass of an Eligible list within fourteen (14) days from such canvass, failure to make deadlines for requests for information by the Appointing Authority, failure to provide material requested by the Appointment Authority, or failure to make appointments for required examinations shall be deemed cause to strike the name of any eligible from the Eligible List.
- 9.13.06 Refusal to accept reemployment in a permanent position shall constitute separation from the service except as provide in Rule 9.07.
- 9.13.07 Such action contemplated by this rule may also be taken for other material reasons.
- 9.13.08 Any eligible may voluntarily remove their name from the Eligible List by signing the appropriate form provided by the Secretary/Chief Examiner or by sending via email a signed statement to the Commission requesting such action. No prejudice will be attached to an eligible who voluntarily removes their name from an Eligible List.

#### 9.15 RESTORATION OF NAMES TO ELIGIBLE LISTS

The name of an eligible which has been removed from an Eligible List may be restored upon written request to the Secretary/Chief Examiner for such restoration. The request must specify the reasons for the requested restoration. The Secretary/Chief Examiner may approve the request if it is deemed the evidence submitted justifies such approval.

## RULE X - CERTIFICATION AND APPOINTMENT

### 10.01 GENERAL PROVISIONS

Vacancies in the classified Civil Service shall be filled by reinstatement, promotional appointment, assignment, original appointment, transfer, reduction, or demotion. In the absence of an appropriate Eligible List, the Secretary/Chief Examiner may authorize a temporary or provisional appointment.

### 10.03 REQUEST FOR CERTIFICATION

Whenever an appointing authority wishes to fill a vacancy, a request for certification shall be submitted to the Secretary/Chief Examiner. The request shall show the number of positions or vacancies to be filled, the class title, tenure of work to be performed, cause of the vacancy, or if a new position, authority for the appointment and any details for full description of the position to be filled.

### 10.05 CERTIFICATION

10.05.01 Eligible List. Certification to fill vacancy shall be made by the Civil Service Department from any active Eligible List.

10.05.02 Order of Reinstatement—Eligible.

- (a) If a vacancy is to be filled from the reinstatement Eligible List, the following shall be the order of certification.
  - (1) Regular employees in the order of their length of service. The regular employee on such Eligible List who has the most service credit shall be first reinstated;
  - (2) Probationers, without regard to length of service. The names of all probationers upon the reinstatement Eligible List shall be certified together.
- (b) Upon request from the Appointing Authority, the Secretary/Chief Examiner may authorize reinstatement out of such regular order upon a showing of efficiency or that such action is for the good of the service, after giving the employees adversely affected an opportunity to be heard.

(c) Nothing in this rule shall prevent the reinstatement of any regular or probationary employee for the purpose of transfer to another department, either for the same class or for voluntary reduction in class, as provided in these rules.

10.05.03 Certification. If a vacancy is to be filled from a promotional or original Eligible List, the Secretary/Chief Examiner shall certify to the appointing authority the names of five (5) available eligible that stand highest on the appropriate Eligible List.

10.05.05 Multiple Vacancies. If two or more vacancies are to be filled from any of the above Eligible Lists other than the reinstatement Eligible List, the name of one additional eligible shall be certified for each additional position.

10.05.07 Additional Names. If an Appointing Authority makes an acceptable showing that any of the eligible certified are not available or that they do not respond, sufficient additional names shall be furnished to complete the certification.

10.05.09 Special Skills. Where a certification of eligible with special experience, training, or skills is requested in writing by the Appointing Authority as being necessary for satisfactory performance in a particular position, and the Secretary/Chief Examiner determines that the reasons given fully justify the request, a certification may be made of only the highest ranking eligible who possess the special qualifications.

10.05.11 Prior Service. If a temporary vacancy is to be filled from an open or promotional Eligible List, those eligible with three (3) months of service who are shown on the Eligible List as having been laid off within the last twelve (12) months from the department in which the vacancy exists shall be placed in grade order at the head of the list of eligible for certification according to rule.

10.05.13 Application/Examination. The application and examination papers of a certified eligible shall be available for inspection by the Appointing Authority.

## 10.07 DEFERMENT OF CERTIFICATION

The Secretary/Chief Examiner may grant deferment of certification of an eligible, upon receipt from the eligible of a written request with satisfactory reason therefor. Such deferment will thereafter prevent certification of such eligible until the next vacancy occurring after the eligible



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has given written notice of his or her desire to be returned to the Eligible List, and such return has been approved by the Secretary/Chief Examiner.

#### 10.09 DURATION OF CERTIFICATION

Certification shall be in effect for thirty (30) days from its date of issuance. The Appointing Authority must file a report of any appointment from such certification with the Secretary/Chief Examiner. Upon request, the Secretary/Chief Examiner may extend such certification for additional thirty (30) day periods. Expiration of eligibility shall not cancel the validity of a certification.

#### 10.11 REGULAR APPOINTMENT

A regular appointment to fill a vacancy must be made from the names contained on the official certification. The official appointment report shall show the name of the person appointed, the effective date, the salary, the nature or duration of the appointment, and any other information required.

#### 10.13 TEMPORARY APPOINTMENT

Where there is no suitable Eligible List from which certification can be made, the Secretary/Chief Examiner may allow the Appointing Authority to make a temporary appointment. A temporary appointment may be made for a period of up to twelve (12) months and may be extended for an additional six (6) months, per MMC. No person shall receive more than one temporary appointment in any twelve (12) month period unless authorized by the Commission upon written notice provided by the Appointing Authority showing that unique circumstances exist to require subsequent appointments. All temporary employment in a class shall cease at the earliest possible date and shall not exceed thirty (30) days from the date of notice that the proper Eligible List for such class is available. An extension may be granted by the Secretary/Chief Examiner upon satisfactory written notice provided by the Appointing Authority.

## RULE XI - PROBATION

### 11.01 PROBATIONARY PERIOD

11.01.01 After each full-time appointment from a Certified Eligible List, the employee appointed shall serve a complete period of probation before appointment is deemed complete. The purpose of the probationary period is to provide a trial period during which the department may observe the performance of the probationary employee before civil service status is acquired.

11.01.02 If a probationer transfers in the same class from one department to another, the receiving department may, with the approval of the Secretary, require that a complete probationary period be served in that department.

11.01.03 A regular employee who has been reduced to a lower class in which the employee has not had regular standing shall have probationary status in the lower class for twelve (12) months from the date of such reduction. This twelve-month period is necessary in light of the lengthy training requirements and to provide the opportunity to evaluate the employee under all of the different seasonal conditions (e.g., boating season, tourist season, winter storm season). Such period may be extended for the reasons set forth in 11.03 below.

### 11.03 LENGTH OF PROBATIONARY PERIOD.

The period of probation shall be equivalent to twelve (12) months of full-time service following permanent appointment from an eligible register. This twelve-month period is necessary in light of the lengthy training requirements and to provide the opportunity to evaluate the employee under all of the different seasonal conditions (e.g., boating season, tourist season, winter storm season). Minor absences due to vacation, annual military leave, illnesses, etc. shall not be construed as interrupting the probationary period unless an absence or absences are considered to be excessive to the extent that the Secretary will approve a departmental request for an extension of the probationary period.

### 11.05 INTERRUPTION OF PROBATIONARY PERIOD BY MILITARY SERVICE.

A probationer who engages in active military service on an extended basis shall be considered as having an interrupted probationary period. Such employee may continue the probationary period following return from military leave.



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**11.07 SERVICE IN ANOTHER CLASS.**

Service in a class or office other than the one to which an eligible is regularly appointed may be credited toward completion of a probationary period if the Secretary has approved the written statement of the appointing authority to the effect that the probationary period may be properly judged on the basis of service in the other class or office.

**11.09 REMOVAL OF PROBATIONER.**

**11.09.01 GROUNDS.** The appointing authority, by assigning in writing to the Commission the reasons therefor, may discharge any probationer. Such reasons need not constitute just cause and shall not otherwise be reviewed by the Commission.

**11.09.02 PROCEDURE.** The department head must file a prescribed form stating the reasons for the removal with the Secretary prior to the end of the probationary period. Notice must be mailed to or personally served on the employee and proof of notice filed with the Secretary.

**11.09.03 RIGHTS RETAINED.** A promotional probationer, unless discharged for cause, retains all civil service rights to the position from which appointed. Such rights shall be retained whether promotion is to an entrance or promotional position.

**11.11 DEMOTION.**

A probationer may be demoted for inability to perform satisfactorily the duties of the position to which the employee was appointed, in accordance with Rule 17.03 on demotion, or may be allowed eligibility for another position in the same class, for which the employee is deemed qualified by the appointing authority, subject of approval by the Commission.

A probationer demoted to a class in which the employee has not held regular standing shall start a new period of probation.

**11.13 PROTESTS.**

Any probationer may file a written protest with the Secretary protesting a termination of probationary status or demotion. All protests must be filed within ten (10) days of notice of the action taken. The Secretary will give due consideration to and take appropriate action on all timely-filed protests. Probationers may appeal a decision of the Secretary to the Commission under Rule 17.

## RULE XII - SERVICE CREDIT

### 12.01 SERVICE CREDIT

Service credit in a class for a regular employee shall be computed to cover all service in a Civil Service position subsequent to regular appointment in that class and shall be applicable in the department in which employed.

### 12.03 DETERMINATION

12.03.01 The determination of a regular employee's earned service credit shall be made on the basis of the available payroll, personnel, and other records. If said records are not available for any particular period, it shall be presumed that each regular employee employed during such period, as shown by other official records, earned full service credit in the particular class and department in which employed, for the entire length of such period.

### 12.04 REQUESTS FOR CONFIRMATION.

12.04.01 REQUESTS. Any regular employee, or an association or union on behalf of such employee, or the head of an employee's department may request a determination of the employee's earned service credit as of a designated date in any specific class and department in which the employee has served. If the request is made at a reasonable time and interval, and subject to such directives as may be then in effect, the Secretary shall as soon as practicable but within ten (10) working days ascertain the requested computation, and shall so notify the requesting employee, association, and union or department head in writing.

12.04.02 PROTESTS. If any employee, association, union, or department head has cause to object to the computation of the employee's service credit, written protest may be filed with the Secretary setting forth with particularity the reason and basis for the objection. Such protests must be filed within ten (10) working days. The Secretary shall give due consideration to all timely-filed protests and take such action as deemed appropriate.

## 12.05 SERVICE COVERED.

12.05.01 **GENERALLY.** Once a regular employee acquires regular Civil Service status and regular standing in any given class in a particular department, the employee shall receive full service credit for the entire length of time served in such class and department, whether such service is continuous or interrupted.

12.05.02 **PROBATIONARY PERIOD.** After completion of an original or promotional probationary period, a regular employee shall receive credit for actual service during such period. If a probationer fails to complete satisfactorily the required probationary period and is returned to the former regular class, actual service during such period shall be credited to the former class.

12.05.03 **TEMPORARY OR PROVISIONAL APPOINTMENT.** If a temporary or provisional appointment is followed by a regular appointment to the same class, such employee shall receive credit in such class for actual, continuous service during the temporary or provisional appointment. A regular employee shall receive service credit in the regular class for the period after the regular appointment, service under a temporary or provisional appointment to another class or department or to an exempt position, if the employee returns to a regular class after the expiration or termination of such service.

12.05.04 **ON ASSIGNMENT.** A regular employee shall be credited to the regular class for the entire length of time served under an assignment.

12.05.05 **LEAVES WITH PAY.** A regular employee shall receive full credit for any leave with pay.

12.05.06 **LEAVES WITHOUT PAY.** No service credit shall be allowed for any time that an employee is on any leave of absence without pay, except where required by law.

12.05.07 **SUSPENSION.** No service credit shall be allowed while an employee is on suspension without pay, unless the suspension is modified, reversed, or nullified on appeal.

## 12.06 CHANGES IN CLASS OR DEPARTMENT.

12.06.01 **GENERALLY.** No service credit earned by a regular employee in any one class and department shall be carried over upon appointment, promotion, reinstatement, transfer, demotion, or voluntary reduction to or from another class or department, but

such service credit shall be permanently retained in and be credited to the class and department in which it was earned, unless expressly provided by these Rules.

**12.06.02 ABOLITION OF CLASS.** In the event that a regular employee's former class is abolished or changed, all service credit earned in such class prior to its abolition or change and not lost or forfeited shall be credited to another class in the same department which is substantially similar to, and is neither higher nor lower than, the abolished or changed class.

**12.06.03 COMBINATION—COMPUTATION.** Whenever the service credit of a regular employee earned in two or more classes, or in the same class in different departments, is to be combined under these Rules as hereinafter prescribed, the service credit earned and not lost or forfeited in each such class and department shall be computed separately and shall be added together, and the total sum shall represent the employee's service credit for the particular purpose in question.

#### **12.07 PROMOTION—COMPUTATION OF CREDIT.**

Upon completion of the probationary period for a promotional position, an employee shall receive credit for all service in the promotional class and particular department, which shall be credited to that class and department. All prior service credit earned in the lower class and department shall be retained by the employee, but such service credit shall be credited only to that latter class and department.

#### **12.08 TRANSFER—COMPUTATION OF CREDIT.**

A regular employee shall be entitled to retain all service credit earned in any class and department prior to an authorized transfer therefrom, which shall be credited to such former class and department. Service credit earned in the new class or department to which transferred shall be credited to such new class or department, from the effective date of the transfer. If the transfer becomes regular, the required trial period, if any shall be credited to the new class or department. Otherwise such trial period as served shall be credited to the former class or department.

#### **12.09 DEMOTION—COMPUTATION OF CREDIT.**

Upon the involuntary demotion of an employee in accordance with these Rules, all service credit earned in the class and department from which demoted, up to the effective date of the demotion shall be retained by the employee, unless otherwise provided in the demotion order and approved by the Commission. From that time, the employee shall be entitled to such service credit earned in the lower class to which demoted, plus whatever service credit formerly earned in such class and department and not lost or forfeited. Any required trial period, if satisfactorily served, shall be credited to that lower class and department. If not satisfactorily served and demoted again, such trial period as actually served shall be credited to the next lower or other class in which the employee acquires regular standing or, in the event of a layoff, to the class and department from which the employee is laid off.



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**12.10 VOLUNTARY REDUCTION—COMPUTATION OF CREDIT.**

Upon the voluntary reduction of a regular employee to a lower class in the same or different department as provided by these Rules, such employee shall retain all earned retention credit in the higher class and department from which reduced, prior to such reduction, if not lost or forfeited.

**12.11 REALLOCATION—COMPUTATION OF CREDIT.**

**12.11.01 SIMILAR CLASSES.** If a regular employee's position is reallocated to a different class which is substantially equivalent to the former class, all the service credit previously earned in the former class and same department and not lost or forfeited shall be credited to the new class. In addition thereto, the employee shall receive all service credit subsequently earned in the new class and same department.

**12.11.02 DISSIMILAR CLASSES.** If the position is reallocated to a class which is not substantially similar, the service credit earned in the former class shall be credited only to such former class and department.

**12.12 LAYOFF—COMPUTATION OF CREDIT.**

No service credit shall accrue or be allowed during the period in which an employee is laid off, but all service credit earned and not lost or forfeited up to the effective date of the layoff shall be retained by the employee.

**12.13 DISCIPLINARY PENALTY.**

As a disciplinary penalty in lieu of dismissal, demotion or other penalty, or in addition to such penalty, the Commission may by its order, at its discretion, forfeit or deduct all or a designated portion of the service credit that the employee has earned up to the date of the order, in terms of service credit months or years.

**12.14 SERVICE CREDIT UPON SEPARATION FROM SERVICE.**

Upon separation from the service, no credit shall be given or allowed for any prior service or employment up to the time of such separation, and except as otherwise specifically provided by these Rules, service credit shall be forfeited and not be reinstated upon reemployment by the City.

## RULE XIII - TRANSFER—REDUCTION

### 13.01 GENERAL.

The transfer of an employee shall not constitute a promotion in the service, except as provided in Rule 13.03.04, below.

### 13.02 INTRA-DEPARTEMENTAL TRANSFERS.

An appointing authority may transfer an employee from one position to another position in the same class in the same department without prior approval of the Secretary but must report any such transfer to the Civil Service Department within five (5) working days of its effective date.

### 13.03 PROCESS.

Transfers may be made upon consent of the department head and with the Secretary's approval as follows:

13.03.01 Transfer in the same class from one department to another; such a transfer may be made concurrent with the appointment of an employee to another class;

13.03.02 Transfer to another class in the same or a different department in case of injury in line of duty either with the City service or with the armed forces in time of war, resulting in permanent partial disability, where showing is made that the transferee is capable of satisfactorily performing the duties of the new position;

13.03.03 Transfer, in lieu of layoff, may be made with limited standing to a single position in another class in the same or a different department, upon showing that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.

13.03.04 Transfer, in lieu of layoff, may be made with limited standing to a single position in another class when such transfer would constitute a promotion or advancement in the service; provided, a showing is made that the transferee is capable of satisfactorily performing the duties of the position and that a regular employee or probationer is not displaced and when transfer in lieu of layoff under Rule 13.03.03 is not practicable. Regular standing in the new class may be attained by the employee only through examination and permanent regular appointment.

13.03.05 The Secretary may approve a transfer under this Rule 13.03 with the consent of the department head of the receiving department only, upon a showing of circumstances justifying such action.

#### 13.04 LIMIT OF RULE.

These rules have no authority or effect on positions or departments not subject to the Civil Service. Transfer to or from positions or departments not subject to the Civil Service are unaffected by these rules.

#### 13.05 REDUCTION.

13.05.01 AUTHORIZED. As defined in Rule 4.73, a reduction is the movement of an employee from a higher class to a lower class of employment for reasons other than cause. A reduction may be made only upon an employee's written request, and consistent with these Rules.

13.05.02 APPLICABLE CLASSES. A reduction may be approved for

- A. the next lower or any lower class in the Class Series containing the class from which reduced.
- B. any lower class in which the employee has previously acquired Regular standing, provided there has been no intervening forfeiture, or
- C. any lower class which is substantially similar to any lower class (in the employee's current class series) in the position classification plan; or
- D. employees seeking to return to employment or reemployment from a disability, to a vacant position in another permissible class or department for which the employee qualifies.

#### 13.05.03 PROCEDURE.

- a. A request for reduction must be submitted in writing to the Secretary. The request must include statement of justifiable or satisfactory reason, including a showing that the employee meets the qualifications of the lower class.
- b. The reduction must be approved by the Commission and the department head for the lower class position.
- c. The reduction shall take effect on the date ordered by the Commission appointing authority.

**13.05.04 EFFECT OF REDUCTION.**

- a. Upon the effective date, or following satisfactory completion of any trial period, the reduction shall be complete and the employee shall have Regular standing in the lower class and department to which reduced.
- b. An employee reduced shall be able to return to the former position only by examination and regular appointment. In the event of a recovery from disability, an employee reduced in class may be eligible for appointment from a reinstatement register.

**13.05.05 REDUCTION AVAILABLE.**

A. By Employee. A voluntary reduction may be sought by an employee for any vacant position in a class under Section 13.05.02.

B. By Department.

1. Employees with Standing. Reduction involuntarily of an employee from a higher civil service class to a lower civil service class is governed by Rule 14, Layoff.
2. Employees without Standing. When an employee is reduced from an exempt position, the employee may petition in writing the Commission within ten (10) days of the end of employment in the exempt position for placement on a reinstatement register for a class for which the employee is deemed eligible. In considering the placement of the employee, the Commission may consider the employee's experience, the record of City employment, or such other factors as deemed in the best interest of the System. The Commission's decision shall be deemed permissive and discretionary, and an employee shall have no claim or cause for denial of placement on a reinstatement register.

13.05.06 The employee shall serve a designated trial period of one (1) month's service from the effective date of the reduction, in the position to which reduced for the sole purpose of satisfying the Commission that employee is capable of satisfactorily performing the functions and duties of such position or class.

Provided, the Commission may for cause shown, at any time during the prescribed trial period, extend, shorten, modify or waive in whole or in part the duration or balance of such period.



## RULE XIV - LAYOFF

### 14.01 LAYOFF –

In a given class in a department, the following shall be the order of layoff:

14.01.01 Provisional appointees;

14.01.02 Temporary or intermittent employees not earning service credit;

14.01.03 Probationers (except as their layoff may be affected by military service during probation);

14.01.04 Regular employees in the order of their length of service, the one with the least service being laid off first.

### 14.02 LAYOFF OUT OF ORDER.

The Secretary may grant permission for a layoff out of the regular order, upon showing by the department head of a necessity therefor in the interest of efficient operation of the department, after giving any affected employee or employees an opportunity to be heard.

### 14.03 REDUCTION IN LIEU OF LAYOFF.

At the time of any layoff, a regular employee or a promotional probationer, shall be given an opportunity to accept reduction to the next lower class in a series of classes in the employee's department, or the employee may be transferred as provided by Rule 13.03.03 and Rule 13.03.04.

### 14.04 TRANSFER IN LIEU OF LAYOFF.

An employee so reduced shall be entitled to credit for any previous regular service in the lower class and to other service credit in accordance with Rule 12 Service Credit.

## RULE XV - LEAVES OF ABSENCE

### 15.01 DURATION OF LEAVES.

This rule only applies to leaves of absence which are not provided for under law, e.g. Family Medical Leave Act, Military Leave.

15.01.01 A leave of absence without pay for a period not exceeding thirty (30) consecutive days may be granted by the department head, who shall give notice of such leave to the Commission.

15.01.02 A request for a leave of absence longer than thirty (30) consecutive days bearing the favorable recommendation of the employee's department head may be granted by the Secretary, who shall give notice of such leave to the Commission.

15.01.03 No employee shall be given leave to take a position outside the City service for more than thirty (30) days in any calendar year, except where it appears in the best interest of the City.

### 15.02 CANCELLATION/REVOCATION.

Any or all leaves of absence without pay within a department may be cancelled whenever any necessity arises in the good-faith judgment of the department head. A department head may revoke an individual employee's leave without pay if it is found that the employee is using the leave for purposes other than that for which it was granted. Employees may be ordered to return to work immediately or as soon as practicable on written notice from the department head of the cancellation or revocation of leave. A copy of such notice shall be filed with the Secretary.

### 15.03 [RESERVED]

### 15.04 RETURN FROM LEAVE.

At the expiration of the authorized leave of absence, a probationer or regular employee shall resume the same class of work with standing and service credit as determined by these rules.

### 15.05 MILITARY LEAVE.

See City policy and state and federal law relating thereto.

### 15.06 FILLING VACANCY.

All temporary employment caused by leave of absence shall be made pursuant to Rule 10.



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**15.07 PROTESTS.**

All protests to any action pertaining to leaves of absence shall be filed with the Secretary within ten (10) working days of notice of such action. The Secretary shall give due consideration to and take appropriate action on all timely-filed protests.



## RULE XVI - RESIGNATION

### 16.01 HOW SUBMITTED.

Resignation of any employee from the service shall be made in writing and filed with the Secretary after approval by the department head.

### 16.02 WITHDRAWAL OF RESIGNATION.

The Secretary may permit the withdrawal of a resignation only upon a written request filed under Rule 9.05 and if such request for withdrawal bears the favorable recommendation of the department head.

### 16.03 INVOLUNTARY RESIGNATION.

Any resignation may be voided and set aside and the employee reinstated or restored to active duty by order of the Commission upon its determination that the resignation was made involuntarily or under duress or coercion, after giving the department head reasonable notice and an opportunity to be heard on the matter. Such action by the Commission may only be taken upon the written petition of the resigned employee filed with the Human Resources Manager within ten (10) working days from the effective date of the resignation. If no such petition is filed within the ten (10) working day limit, a resignation shall be conclusively presumed to have been made voluntarily and without duress or coercion.

### 16.04 IMPLIED RESIGNATION.

The department head may presumptively consider any employee to have impliedly resigned upon finding that such employee has been absent from duty without leave or authorization or has failed to report for duty following the expiration or termination of any suspension for three (3) or more consecutive days upon which the employee was scheduled to work or has quit or "orally resigned" and has been absent from duty for three (3) or more consecutive days upon which the employee was scheduled to work without leave or authorization.

### 16.05 RETURN TO ELIGIBLE REGISTER FOLLOWING RESIGNATION.

See Rule 9.05.

## RULE XVII - DISCIPLINE AND DISCHARGE

### 17.01 SUSPENSION

17.01.01 A department head may suspend a subordinate with the approval of the appointing authority, with or without pay, for a period not to exceed thirty (30) days for cause.

17.01.02 Any deprivation by a department head of any vacation or other paid leave, compensatory time off or other privilege involving pay or compensation either directly or indirectly, to which an employee is otherwise entitled under law and these Rules, shall be deemed to be a suspension without pay and shall be subject to the above provisions.

### 17.03 DEMOTION—DISCHARGE

17.03.01 The appointing authority may discharge an employee or demote an employee to a lower class for cause. An employee so demoted shall lose all rights to the higher class. If the employee has not had previous standing in the lower class, such demotion shall not displace any other regular employee or any probationer.

17.03.02 The Secretary shall be satisfied as to the ability of such demoted employee to perform the duties of the lower class. The demoted employee may be required to actually serve a trial period in the class to which demoted, for such time and upon such terms and conditions as the head of the department may provide in the demotion order, for the sole purpose of determining the capability to satisfactorily perform the functions and duties of such class.

17.03.03 Upon the satisfactory completion of the prescribed trial period or upon the effective date of the demotion if no such period is required, the demoted employee shall have the status, rank, and standing of the lower class to which demoted, and such class and department shall be deemed to be the employee's regular class and department for purposes of these Rules until an authorized change is made.

### 17.05 DISCIPLINE—CAUSE—ILLUSTRATED.

The following are declared to illustrate adequate causes for discipline; discipline may be made for any other cause:

17.05.01 Incompetency, inefficiency, inattention to, or dereliction of duty;



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17.05.02 Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, any other act of omission or commission tending to injure the public service, or any other willful failure on the part of the employee to properly conduct themselves;

17.05.03 Mental or physical unfitness for the position which the employee holds;

17.05.04 Dishonest, disgraceful, or prejudicial conduct;

17.05.05 Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid, or preparation to such extent that the use thereof interferes with the mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under Civil Service;

17.05.06 Conviction of a felony, or a misdemeanor involving moral turpitude or illegal drug use;

17.05.07 Promotion of dissatisfaction among members of the department;

17.05.08 Manhandling, mishandling, or inhumane treatment of a civilian or person under arrest;

17.05.09 False or fraudulent statements or fraudulent conduct by an applicant, examinee, eligible, or employee, or such actions by others with their collusion;

17.05.10 Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer;

17.05.11 Willful or intentional violation of any of the provisions of these rules;

17.05.12 Such other and further basis as may be established from time to time by the fire and police departments or the appointing authority;

17.05.13 Any other cause, act or failure to act which, under law or these Rules, or the judgment of the Commission, is grounds for or warrants dismissal, discharge, removal or separation from the service, demotion, suspension, forfeiture of service credit, deprivation of privileges or other disciplinary action.

## RULE XVIII - PRE-DISCIPLINARY HEARING

### 18.01 PRE-DISCIPLINARY HEARING—REQUIRED.

A department head shall provide and arrange for a pre-disciplinary hearing prior to demotion, suspension, or discharge of a subordinate. The hearing under this Rule 18 is not subject to Rule 19, and does not require witnesses, presentation of evidence or other formalities. It is an opportunity for an employee to present to the department head the employee's response prior to the decision on discipline.

### 18.03 PRE-DISCIPLINARY HEARING—STANDARDS/NOTICE OF DISCIPLINE.

18.03.01 An employee shall be provided, in writing, with a notice of charge and an explanation of the department's evidence. The employee shall be given an opportunity to respond to the charges, orally or in writing, as to why the department's proposed action should not be taken.

18.03.02 The employee may have legal counsel or union representation present at the pre-disciplinary hearing. Such representative is not permitted to participate in the meeting, i.e. make comment, ask questions, etc.

18.03.03 The department's explanation of the department's evidence at the pre-disciplinary hearing shall be sufficient to apprise the employee of the basis for the proposed action. This rule, however, shall not be construed to limit the employer at a subsequent, post-disciplinary hearing from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the pre-disciplinary hearing.

18.03.04 Should the appointing authority determine to discipline following the pre-disciplinary procedure, written notice of discipline shall be given to the employee. Such notice shall include the charges against the employee and a general statement of the evidence supporting the charges.

18.03.05 The Commission shall not consider, on appeal, any basis for disciplinary action not previously presented to an employee.

## RULE XIX - HEARINGS

### 19.01 HEARINGS—APPEALS

19.01.01 Any regular employee who is demoted, suspended, or terminated may appeal such action to the Commission.

19.01.02 Any employee who is alleged to be probationary by the disciplining department may only appeal to the Commission issues regarding probationary status and whether the procedures for discharge of probationers, as found in these rules, were properly followed.

19.01.03 Any employee, or department, who is adversely affected by an alleged violation of Civil Service or City policy may appeal such violation to the Commission.

### 19.03 APPEALS—TIME—FORM.

A notice of appeal shall be filed with the Secretary within ten (10) working days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be made upon the appellant. The notice of appeal shall also contain a brief description of the facts giving rise to the appeal and a concise statement of the reason for the appeal.

### 19.05 EXHAUSTION OF ADMINISTRATIVE REMEDIES.

19.05.01 The Secretary may, when not inconsistent with the terms of a collective bargaining agreement, direct the employee to exhaust available administrative procedures regarding a disciplinary matter before scheduling the matter for hearing before the Commission.

19.05.02 If the employee exhausts the available administrative procedures and continues to believe that good cause has not been shown, the employee may within ten (10) working days after the final step of the procedure request the Secretary to return the appeal to the Commission for hearing.

## 19.07 AUTHORITY OF THE SECRETARY AND STAFF.

19.07.01 The Secretary to the Commission shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the Commission. The Secretary may also conduct pre-hearing settlement conferences (in order to encourage resolution of contested matters), issue subpoenas, and note depositions.

19.07.02 The Commission may authorize the Secretary to investigate any reports or appeals relating to the enforcement or application of the Civil Service or those rules which do not involve a disciplinary proceeding. The Secretary shall report the results of the investigation to the Commission in an open meeting. On the basis of such report, the Commission shall either dismiss the report or appeal as being without basis or set the matter for a full hearing.

19.07.03 As an aid to investigations authorized by the Commission, the Secretary may subpoena any documents that would be discoverable for purposes of hearing preparation and may take depositions by tape recorder of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the Commission.

19.07.04 The Commission may direct a hearing officer of its selection to carry out the proceedings, including the activities of the Secretary, under Rule 19.

## 19.09 APPEALS—INITIAL REVIEW.

The Secretary shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed is a final action. Upon a determination that the appeal is not timely, the Secretary shall issue a written order of dismissal with prejudice, setting for the basis of dismissal. In the case of an action that is not final, the appeal shall be stayed until such action becomes final. Such orders may be appealed to the Commission.

## 19.11 APPEALS—NOTICE OF HEARING.

Upon receipt of a notice of appeal, the Secretary shall forward a copy of the notice to the other affected parties. As soon as possible, thereafter, but in any event within ten (10) working days, a scheduling/pre-hearing conference before the Commission shall be set, with each party to be afforded not fewer than



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ten (10) working days' notice of such hearing. Subsequent hearings on the same appeal shall have at least one week's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this section.

**19.13 APPEALS—AUTHORITY OF DEPARTMENT.**

The exercise of jurisdiction by the Commission over a matter does not preclude the party from withdrawing, modifying, or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any party may request the dismissal of the matter. A stipulation signed by both parties shall be submitted to the Commission prior to such dismissal.

**19.15 SERVICE OF PROCESS—PAPERS.**

19.15.01 The Secretary shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document or paper.

19.15.02 All notices, documents or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgement of such mailing attached to the papers so served. Written acknowledgement shall be by affidavit of the person who mailed the papers or by certificate of any attorney or the Secretary.

19.15.03 Service upon parties shall be regarded as complete when personal service has been accomplished or by mail (U.S. or inter-city), upon being properly stamped and addressed and deposited in the mail system.

19.15.04 Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Secretary. All papers except the original appeal notice shall be served with the original and three copies. Briefs and memoranda must be filed with the Commission at least three (3) working days prior to any hearing involving matters discussed in said brief or memoranda. Documentary evidence is not required to be filed but, rather, provided at the hearing.

19.15.05 An appellant or petitioner is responsible for notifying the Commission in writing of any change in mailing or street address and telephone number. Failure to so notify the Commission shall constitute a waiver of service and notice under these rules.

### 19.17 DISCOVERY.

19.17.01 Parties to a proceeding are required to provide to each other reasonable access to and discovery of all relevant information concerning the matter before the Commission. Any questions concerning relevancy or access shall be resolved by order of the Secretary.

19.17.02 Upon the failure of any party to comply with an order of the Secretary compelling discovery, the Secretary shall schedule the matter before the Commission for review and determination of appropriate sanctions.

### 19.19 SUBPOENAS.

19.19.01 Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under the person's control.

19.19.02 Upon application of any party or their representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having said subpoena properly served. Requests for subpoenas shall be submitted to the Commission offices at least three (3) working days prior to the hearing.

19.19.03 Service of subpoenas shall be made by serving a copy of the subpoena on the person named therein.

19.19.04 The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office, and if such service has not been acknowledged by the witnesses, the person serving the subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.

19.19.05 Upon a motion promptly made by a party or by the person to whom the subpoena is directed, and upon notice to the party on whose behalf the subpoena was issued, the Commission may:

1. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

2. Condition denial of a motion to quash or modify upon just and reasonable conditions.

#### 19.21 BURDEN OF PROOF.

At any hearing on appeal from a demotion, suspension, or termination, the disciplinary authority shall have the burden of showing by a preponderance of the evidence that its action was for cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence.

#### 19.23 EVIDENCE.

19.23.01 Subject to other provisions of these rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of the evidence, the Commission shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the State of Washington.

19.23.02 A witness in any hearing may be examined orally, under oath or affirmation and shall be subject to cross-examination by opposing parties and the Commission.

19.23.03 When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The Commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, either with or without objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.

19.23.04 At any hearing before the Commission when documentary exhibits are to be offered into evidence, copies shall be furnished to the opposing party, to each Commission member and to the Secretary.

19.23.05 Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will make request of other parties for such stipulation no later than three (3) days in advance of the hearing, barring unusual circumstances. The party of whom the request is made shall respond no later than one (1) day prior to the hearing.

19.23.06 An employee has the right to appear before the Commission with or without counsel and to be heard in the employee's defense.



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**19.25 DELIBERATION.**

The Commission may deliberate in closed (executive) session when taking a disciplinary or other quasi-judicial case under advisement. Deliberations by the Commission shall otherwise be subject to Chapter 42.30 RCW. No person other than the Secretary and legal counsel to the Commission shall be present during deliberations. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing.

**19.27 DECISION.**

In any appeal, the Commission shall issue a decision, including findings of fact, conclusions of law, and an order, to each party or counsel of record for each party, as soon as practicable considering the complexities and ramifications to all parties involved.

**19.29 REMEDIES.**

The Commission may issue such remedial orders as deemed appropriate.

**19.31 RECONSIDERATION.**

A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten (10) working days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.

**19.33 WAIVER.**

Upon stipulation of all parties to a proceeding, and upon a showing that the purposes of the rules or ordinances of the City would be better served, the Commission may waive the requirements of any of these rules.



## RULE XX - RETIREMENT AND DISABILITY

### 20.01 RETIREMENT.

Employees with the City who are members of pension fund systems as provided by law shall be retired on account of service or disability in accordance with provisions of law.

### 20.02 REINSTATEMENT AFTER DISABILITY RETIREMENT.

**20.02.01 PROCEDURE.** The Secretary shall review any report from a retirement system showing that a former employee who is on disability retirement has regained their health to the extent employable. Upon being satisfied that the employee is physically and mentally competent to perform the duties of the regular class, the Secretary shall:

Order return of the employee to former employment status as if a leave of absence had been granted; or

Place the name on the reinstatement register for an available class and department.

**20.02.02 EFFECT.** The name of an employee who is employable but not fully recovered shall be placed on the most advantageous reinstatement register for the same department, for an equivalent or lower class comprised of duties the employee is competent to perform, as determined by the Secretary. If such an employee's name is placed on a reinstatement register, service credit acquired previous to retirement shall be continued. The employee shall be reinstated from such register and transferred or reduced in grade according to rules. Eligibility rights shall not expire as prescribed in case of layoff. Any reinstatement in a class other than that in which last employed shall not result in a promotion.

**20.02.03 DISCHARGE FOR CAUSE—EXCEPTION.** The provisions of this rule shall not apply in the event an employee is discharged from the service, whether or not the employee receives a disability retirement.



## RULE XXI - MISCELLANEOUS

### 21.01 REPEALS AND SAVINGS.

All matters shall be subject to these rules, and to that extent, all previous Civil Service rules are hereby repealed.

### 21.03 COMPUTATION OF TIME.

21.03.01 In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a City legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a City holiday. When the period of time prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

21.03.02 Any period of time except for the stated period of time set forth in Rules 19.03 and 19.11 may be extended by the Secretary for no more than fourteen (14) days upon written notice to the Commission and a showing of good cause. The motion for extension of time must be filed with the Commission offices prior to the end of the applicable time period.

21.03.03 The date of notice for purposes of these rules shall be the date on which notice of an action is posted in the Commission's office;

- (a) as provided in these Rules;
- (b) is mailed; or
- (c) delivered personally to a party to a proceeding.

### 21.05 CIVIL SERVICE AND COLLECTIVE BARGAINING.

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW ("Act") provides for collective bargaining agreements between the City and the labor organizations representing employees. The Act, and collective bargaining agreements prevail over these rules in the event of conflict.



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**CIVIL SERVICE RULES VERSION 6th ADOPTED** this 9<sup>th</sup> Day of September, 2021 by the Civil Service Commission for the Fire and Police Departments of the City of Mukilteo, Washington.

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LeRoy McNulty, Chair

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Christina Over, Commissioner

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Linda Forst, Commissioner